107TH CONGRESS
2D SESSION

S. 2609

To require the Federal Trade Commission to promulgate a rule to establish requirements with respect to the release of prescriptions for contact lenses, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 11, 2002

Mr. LEAHY (for himself and Mr. SCHUMER) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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A BILL

To require the Federal Trade Commission to promulgate a rule to establish requirements with respect to the release of prescriptions for contact lenses, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Contact Lens Prescription Release Act of 2002''.

SEC. 2. PRESCRIPTIONS FOR CONTACT LENSES.

(a) AVAILABILITY OF CONTACT LENS PRESCRIPTION INFORMATION.—No later than 9 months after the date

of enactment of this Act, the Federal Trade Commission shall promulgate a rule under section 553 of title 5, United States Code, to require that a prescriber shall, upon completion of the contact lens fitting process for a patient—

(1) provide to the patient a copy of the prescriber's prescription for contact lenses, regardless of whether or not the patient requests such a copy; and

(2) upon request of the patient or an agent of the patient—

(A) provide a copy of such a prescription to the patient or an agent of the patient; or

(B) promptly verify to an agent of the patient, including by electronic means, the information contained in such a prescription.

(b) EXPIRATION OF PRESCRIPTION.—The rule promulgated under subsection (a) shall also provide that any contact lens prescription shall expire—

(1) except as provided in paragraph (2), on the later of—

(A) the date, if any, provided by the laws of the State that issued the license under the authority of which the prescription is issued; or

(B) a date that shall be prescribed by the Commission in the rule; or

(2) on any expiration date specified by the prescriber that is different than the date that applies under paragraph (1) and that is based on the medical judgment of the prescriber with respect to the patient's ocular health.

(c) VIOLATIONS.—Any violation of a rule promulgated under this section shall be treated as a violation of a rule under section 18 of the Federal Trade Commission Act (15 U.S.C. 57a) regarding unfair or deceptive acts or practices.

SEC. 3. REQUIREMENTS APPLICABLE TO INDUSTRY MEMBERS.

(a) CONTENT OF ADVERTISEMENTS AND SALES PRESENTATIONS.—No later than 9 months after the date of enactment of this Act, the Federal Trade Commission shall promulgate a rule under section 553 of title 5, United States Code, to make it an unfair or deceptive act or practice for any industry member to publish, or cause to be published, any advertisement or sales presentation relating to contact lenses that represents, directly or by implication, that contact lenses may be obtained without a valid prescription.

(b) PRESCRIPTION REQUIREMENT.—

(1) IN GENERAL.—The rule promulgated under this section shall—

(A) prohibit selling contact lenses to a consumer unless the seller—

(i) obtains a copy of an unexpired prescription; or

(ii) verifies the prescription in accordance with paragraph (2); and

(B) require a seller of contact lenses to—

(i) record notifications made pursuant to paragraph (2)(B) and the responses to such notifications; and

(ii) preserve such records for a period of time prescribed by the Commission.

(2) PRESCRIPTION VERIFICATION.—The rule promulgated under this section shall provide that a prescription shall be considered verified for purposes of paragraph (1)(A) if the seller—

(A) notifies the prescriber that the patient or an agent of the patient seeks contact lenses from the seller; and

(B) gives the prescriber a sufficient opportunity (as prescribed in the rule) to correct any errors in the prescription.

(c) VIOLATIONS.—Any violation of a rule promulgated under this section shall be treated as a violation of a rule under section 18 of the Federal Trade Commission Act (15 U.S.C. 57a) regarding unfair or deceptive acts or practices.

SEC. 4. EFFECT ON STATE LAW.

This Act and the regulations issued under this Act shall not affect any State law that regulates who is authorized to fit contact lenses.

SEC. 5. DEFINITIONS.

For purposes of this Act:

(1) COMMISSION.—The term ''Commission'' means the Federal Trade Commission.

(2) COMPLETION OF THE CONTACT LENS FITTING PROCESS.—The term ''completion of the contact lens fitting process'' means completion of the process that—

(A) begins after the initial eye examination;

(B) includes—

(i) an examination to determine what the lens specifications should be;

(ii) except in the case of a renewal of a prescription, an initial evaluation of the fit of the lens on the patient's eye; and

(iii) followup examinations that are medically necessary; and

(C) ends when—

(i) except in the case of a renewal of a prescription, the prescriber is satisfied that a successful fit has been achieved; or

(ii) in the case of a renewal of a prescription, the prescriber determines that there is no change in the prescription.

(3) INDUSTRY MEMBER.—The term ''industry member'' means a person that engages in the manufacture, processing, assembly, sale, offering for sale, or distribution of contact lenses.

(4) PRESCRIBER.—The term ''prescriber'' means an ophthalmologist or optometrist who performs eye examinations under a license issued by a State.

(5) PRESCRIPTION.—The term ''prescription'' means the specifications necessary for a patient to obtain contact lenses, that include—

(A) all parameters of the contact lenses that are necessary to allow duplication of the lenses;

(B) a clear notation that the patient is suitable for contact lenses;

(C) the patient's name;

(D) the date of the examination on which the prescription is based;

(E) the date the prescription is issued;

(F) the name, postal address, voice telephone number, and facsimile telephone number of the prescriber that issues the prescription; and

(G) the date on which the prescription expires.

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